

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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NECA-IBEW HEALTH & WELFARE FUND,	:	Civil Action No. 1:08-cv-10783-LAP
Individually and On Behalf of All Others	:	
Similarly Situated,	:	"ECF Case"
	:	
Plaintiff,	:	<u>CLASS ACTION</u>
	:	
vs.	:	PLAINTIFF'S NOTICE OF MOTION AND
	:	MOTION TO FILE UNDER SEAL
GOLDMAN, SACHS & CO., et al.,	:	
	:	
Defendants.	:	
_____	X	

PLEASE TAKE NOTICE that, pursuant to Rule 2.H.2 of this Court's Individual Practices, Class Counsel Robbins Geller Rudman & Dowd LLP hereby moves this Court, before the Honorable Loretta A. Preska, United States District Judge, at the United States Courthouse for the Southern District of New York, 500 Pearl Street, New York, New York 10007, at a time to be determined by the Court, for leave to file under seal: (1) its November 24, 2020 letter to the Court ("Letter"); and (2) Exhibit A to the Letter. Pursuant to Rule 2 of the Court's Individual Practices, Class Counsel is contemporaneously herewith submitting paper copies of the subject documents, along with this motion, to the Court.

The documents Class Counsel seeks to file under seal contain confidential Class Member claim information as well as settlement information that Class Counsel, on behalf of the Class, has agreed to maintain as confidential. "Though there is a common law presumptive right of access to judicial documents, a court considers the weight to be given to this presumption in light of 'the role of the material at issue in the exercise of Article III judicial power and the resultant value of such information to those monitoring the federal courts.' . . . The 'presumption of access to settlement negotiations . . . is negligible to nonexistent.'" *Pullman v. Alpha Media Pub., Inc.*, 624 F. App'x 774, 779 (2d Cir. 2015) (internal citations omitted). At the same time, the Second Circuit has acknowledged that maintaining the confidentiality of this type of information is in the public interest as it encourages settlement. *See, e.g., Gambale v. Deutsche Bank AG*, 377 F.3d 133, 143 (2d Cir. 2004). There is thus good reason for the Court to accept the Letter and exhibit under seal.

Additionally, the Letter and exhibit thereto concern and contain information that has expressly been deemed confidential and is sealed by court order in *Fort Worth Employees' Retirement Fund v. J.P. Morgan Chase, et al.*, No. 1:09-cv-03701-JPO-JCF (S.D.N.Y.). *See id.*, ECF No. 390 at 2 ("To the greatest extent permitted by law, all proceedings undertaken by the

Special Master shall be conducted in such a way as to assure the continued confidentiality of unnamed Class members' identities, and all written and electronic materials received or generated by the Special Master shall be unavailable for public inspection or copying by any person or entity except for Lead Counsel, the Claims Administrator, and any Claimant discussed therein."'). Thus, Class Counsel requests permission to file the Letter under seal consistent with Judge Oetken's order in *Fort Worth*, in which it is also counsel.

Because the aforementioned reasons establish good cause for filing Class Counsel's Letter and exhibit under seal, Class Counsel respectfully submits that its request should be granted.

DATED: November 24, 2020

Respectfully submitted,

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Additional Counsel for Plaintiff

The request to file under seal is GRANTED in order to protect the parties' interests in settlement. Counsel shall confer and inform the Court within one week of the finalization of the settlement as to whether the papers may be unsealed.

**SO ORDERED.**

Dated: December 15, 2020  
New York, New York

  
LORETTA A. PRESKA, U.S.D.J.